

SENATE BILL No. 225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.1-3-33; IC 13-11-2; IC 13-26.5.

Synopsis: Onsite waste management districts. Permits the establishment of regional onsite waste management districts, and specifies the requirements for establishment and operation of a district.

Effective: July 1, 2001.

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January 9, 2001, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 225

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.1-3-33 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33. Gross income
3 received by:
4 (1) a conservancy district established under IC 14-33-20 or under
5 IC 13-3-4 (before its repeal);
6 (2) a regional water, sewage, or solid waste district established
7 under IC 13-26 or IC 13-3-2 (before its repeal);
8 (3) a nonprofit corporation formed solely for the purpose of
9 supplying water to the public;
10 (4) a county solid waste management district or a joint solid waste
11 management district established under IC 13-21 or IC 13-9.5-2
12 (before its repeal); ~~or~~
13 (5) a nonprofit corporation formed for the purpose of providing a
14 combination of:
15 (A) water; and
16 (B) sewer and sewage service;
17 to the public; **or**



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(6) a regional onsite waste management district established under IC 13-26.5;

is exempt from the gross income tax.

SECTION 2. IC 13-11-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 58. (a) "District", for purposes of IC 13-20-20, IC 13-21, and IC 13-20-22, refers to:

(1) a county solid waste management district; or

(2) a joint solid waste management district;

established under IC 13-21-3-1 or IC 13-9.5-2-1 (before its repeal).

(b) "District", for purposes of IC 13-26, refers to a regional water, sewage, or solid waste district established under:

(1) IC 13-26;

(2) IC 13-3-2 (before its repeal on July 1, 1996); or

(3) IC 19-3-1.1 (before its repeal on April 1, 1980).

(c) "District", for purposes of IC 13-26.5, refers to a regional onsite waste management district established under IC 13-26.5.

SECTION 3. IC 13-11-2-158 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 158. (a) "Person", for purposes of:

(1) IC 13-21;

(2) air pollution control laws;

(3) water pollution control laws; and

(4) environmental management laws, except as provided in subsections (c), (d), (e), and (h);

means an individual, a partnership, a copartnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a municipal corporation, a city, a school city, a town, a school town, a school district, a school corporation, a county, any consolidated unit of government, political subdivision, state agency, a contractor, or any other legal entity.

(b) "Person", for purposes of:

(1) IC 13-18-10; and

(2) IC 13-20-17;

means an individual, a partnership, a copartnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a political subdivision, a state agency, or other legal entity, or their legal representative, agent, or assigns.

(c) "Person", for purposes of:

(1) IC 13-20-13;

(2) IC 13-20-14;

(3) IC 13-20-16; and

(4) IC 13-25-6;

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means an individual, a corporation, a limited liability company, a partnership, or an unincorporated association.

(d) "Person", for purposes of IC 13-23, has the meaning set forth in subsection (a). The term includes a consortium, a joint venture, a commercial entity, and the United States government.

(e) "Person", for purposes of IC 13-25-3, means an individual, a corporation, a limited liability company, a partnership, a trust, an estate, or an unincorporated association.

(f) "Person", for purposes of IC 13-26 **and IC 13-26.5**, means an individual, a firm, a partnership, an association, a limited liability company, or a corporation other than an eligible entity.

(g) "Person", for purposes of IC 13-29-1, means any individual, corporation, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, business enterprise, or legal entity.

(h) "Person", for purposes of:

(1) IC 13-30-6-6;

(2) IC 13-30-6-7; and

(3) IC 13-30-8-1;

has the meaning set forth in IC 35-41-1.

SECTION 4. IC 13-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

ARTICLE 26.5. REGIONAL ONSITE WASTE MANAGEMENT DISTRICTS

Chapter 1. Definitions and Applicability

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "District" means a regional onsite waste management district established under this article.

Sec. 3. "Multiple county district" means a district with area in more than one (1) county.

Sec. 4. "System" means a septic system or other onsite waste management system.

Chapter 2. Purposes of Regional Districts

Sec. 1. A regional onsite waste management district may be established under this article to perform one (1) or more of the following functions related to onsite waste management:

(1) Inventory of systems.

(2) Inspection of systems.

(3) Monitoring the:

(A) performance;



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(B) installation; and

(C) maintenance;

of systems.

(4) Establishing:

(A) standards for installation and inspection of systems;
and

(B) procedures for enforcement of the standards.

(5) Seeking grants for:

(A) system maintenance; and

(B) any other activities described in this article.

(6) Recommending fees to be imposed under this article by the county executives of the counties in which the district is located for the operation of the district.

(7) Establishing policy and procedures for the use of grants and other revenue of the district for installation, maintenance, and other activities of the district relating to systems in the district.

(8) Seeking solutions for disposal of septage from systems.

(9) Education and training of system service providers and system owners.

(10) Coordination of activities of the district with activities of:

(A) local health departments;

(B) the department;

(C) the department of natural resources; and

(D) the state department of health.

(11) Other functions as determined by the governing body of the district.

Chapter 3. Establishment of Regional Districts

Sec. 1. The establishment of a regional district may be initiated:

(1) by the adoption of an ordinance by the executive of a county, if the area of the district will be in that county; or

(2) for a multiple county district, by the adoption of joint ordinances by the executives of two (2) or more counties.

Sec. 2. The district shall provide notice of the adoption of an ordinance under section 1 of this chapter to:

(1) local health departments;

(2) the department;

(3) the department of natural resources; and

(4) the state department of health.

Sec. 3. A district established under this chapter is not an independent municipal corporation.

Sec. 4. An ordinance adopted under section 1 of this chapter



must state the following:

- (1) The name of the district.
- (2) The need for the district.
- (3) The purpose to be accomplished by the district.
- (4) An accurate description of the territory included in the district, which does not have to be given by metes and bounds or by legal subdivisions.
- (5) Estimates of the costs of the operations of the district.
- (6) The plan for financing the cost of the operations of the district by the county or counties in which the district is located.

Sec. 5. The district may include area that is not contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment of the area described as a single district.

Sec. 6. The description of the area to be included in a district may not include area in a municipality that has, by ordinance or resolution filed with the county or counties establishing the district, exercised the option not to be included in the district.

Chapter 4. Governing Body of a Regional District

Sec. 1. (a) For a district with area in one (1) county, the executive of the county is the governing body of the district.

(b) For a multiple county district, the executives of all the counties in which the district is located act jointly as the governing body of the district.

Sec. 2. (a) The governing body of a district with area in one (1) county may take action by adoption of an ordinance.

(b) The governing body of a multiple county district may take action by adoption of a joint ordinance of all of the county executives that comprise the governing body.

Chapter 5. Powers and Duties of Regional Districts

Sec. 1. Upon establishment of the district, the district may exercise all the rights, powers, and duties conferred upon the district by this article.

Sec. 2. A district may do the following:

- (1) Make contracts for the services necessary for the operations of the district, including management of the district by any public or private entity.
- (2) Adopt, amend, and repeal bylaws for the administration of the district's affairs.
- (3) Fix, alter, charge, and collect reasonable rates and other charges, to be imposed by the county executives of each

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county in which the district is located, in the area served by the district with respect to every person whose premises are, whether directly or indirectly, served by the district, for the following purposes:

(A) To fulfill the terms of contracts made by the district.

(B) To pay the other expenses of the district.

(4) Refuse the services of the district if the rates and other charges are not paid by the user.

(5) Control and supervise all licenses, money, contracts, accounts, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(6) Upon consent of the governing body of a district with area in one (1) county, or all of the county executives that comprise the governing body of a multiple county district, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(7) Make provision for, contract for, or sell the district's byproducts or waste.

(8) Adopt and enforce rules:

(A) to establish procedures for the governing body's actions; or

(B) for any other lawful subject necessary to the operation of the district and the exercise of the power granted.

Sec. 3. A district may make contracts or incur obligations only if the contracts or obligations are payable solely from:

(1) revenue the district is permitted to raise under this article; or

(2) federal, state, or other grants or contributions.

Chapter 6. District Plan

Sec. 1. A district plan for the operation of the district must include:

(1) a detailed statement of the activities under IC 13-26.5-2-1 that the district plans to undertake; and

(2) a timetable for the activities under subdivision (1).

Chapter 7. Payment of District Expenses

Sec. 1. Each district must keep proper records showing the

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1 district's finances.

2 Sec. 2. A local, state, or federal agency or person may advance
3 or give a district money to be used by the district for the following
4 purposes:

- 5 (1) The preparation of a plan for the operation of the district.
- 6 (2) Other purposes of the district until the district is in receipt
7 of revenue from its operations or from the counties in which
8 the district is located.

9 Sec. 3. When a district receives revenue from its operations or
10 from the counties in which the district is located, the district shall
11 repay any money advanced to the advancing agency in the manner
12 agreed.

13 Sec. 4. The governing body of a district may provide for the use
14 of revenue of the county, or revenue of the counties for a multiple
15 county district, for operation of the district.

16 Chapter 8. Territorial Authority of Sewage Disposal Companies

17 Sec. 1. This article does not limit the following:

- 18 (1) The formation and operation under IC 8-1-2-89 of a
19 sewage disposal company to provide sewage disposal service
20 to an area in the area of a district.
- 21 (2) The granting of a certificate of territorial authority under
22 IC 8-1-2-89 encompassing a part of the area within the
23 district.

24 Chapter 9. Rates and Charges

25 Sec. 1. The governing body may determine rates and charges of
26 the district, to be imposed by the county executive of each county
27 in which the district is located, based on the following:

- 28 (1) A flat charge for each system.
- 29 (2) Variable charges based on the capacity of a system.
- 30 (3) Other factors that the governing body determines are
31 necessary to establish just and equitable rates and charges.

32 Sec. 2. Unless the governing body finds and directs otherwise,
33 the district is considered to benefit every:

- 34 (1) lot;
- 35 (2) parcel of land; or
- 36 (3) building;

37 served by a system. The rates or charges shall be billed and
38 collected accordingly.

39 Sec. 3. (a) Just and equitable rates and charges are those that
40 produce sufficient revenue to pay all expenses incident to the
41 operation of the district.

42 (b) Rates and charges too low to meet the financial requirements

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described in subsection (a) are unlawful.

Sec. 4. The county executive of each county in which the district is located shall impose the initial rates and charges determined by the governing body. The county executive shall establish the rates and charges after a public hearing at which all:

(1) the users of systems in the part of the district located in the county; and

(2) others interested;

have an opportunity to be heard concerning the proposed rates and charges.

Sec. 5. After introduction of the ordinance initially fixing rates and charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates and charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in each of the counties in which the district is located. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

Sec. 6. (a) The ordinance establishing the initial rates and charges, either as:

(1) originally introduced; or

(2) modified and amended;

shall be passed and put into effect after the hearing. However, the governing body must approve any modification or amendment of the rates and charges.

(b) A copy of the schedule of the rates and charges established must be:

(1) kept on file in the office of the district; and

(2) open to public inspection.

Sec. 7. A change of the rates and charges may be made in the same manner as the rates and charges were originally established.

Chapter 10. Liens for Rates and Charges

Sec. 1. The rates and charges made, assessed, or established under this article against:

(1) a lot;

(2) a parcel of land; or

(3) a building;

that is served by the district are a lien against the lot, parcel of land, or building.

Sec. 2. Except as provided in sections 5 and 6 of this chapter, a lien attaches at the time of the recording of the list in the county recorder's office as provided in IC 13-26.5-11. The lien:

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(1) is superior to and takes precedence over all other liens except the lien for taxes; and

(2) shall be enforced under this article.

Sec. 3. If rates and charges are not paid within the time fixed by the governing body, the rates and charges become delinquent and a penalty of ten percent (10%) of the amount of the rates and charges attaches to the rates and charges. The governing body may recover:

(1) the amount due;

(2) the penalty; and

(3) a reasonable attorney's fee;

in a civil action in the name of the district.

Sec. 4. The rates and charges, together with the penalty, are collectible in the manner provided by this article.

Sec. 5. (a) A rate or charge is not enforceable as a lien against a subsequent owner of property unless the lien for the rate or charge was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the district who is charged with the collection of the rate or charge shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received not later than one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

Sec. 6. (a) This section applies whenever the owner of the property has notified the general office of the district by certified mail with return receipt requested of the address to which the owner's notice is to be sent.

(b) A lien does not attach against a lot, parcel of land, or building occupied by someone other than the owner unless the officer of the district who is charged with the collection of rates and charges notifies the owner of the property after the rates and charges have become sixty (60) days delinquent.

Sec. 7. (a) The district shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:



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(1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.

(2) That the purchaser has not been paid by the seller for the delinquent fees.

Chapter 11. Enforcement of Delinquencies

Sec. 1. This chapter applies only to fees or penalties that have been due and unpaid for at least ninety (90) days.

Sec. 2. The officer of the district who is charged with the collection of the rates and charges shall enforce payment of the rates and charges. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent rates and charges, including the amount of the penalty, that are enforceable under this chapter. The list must include the following:

(1) The name of each owner of each lot or parcel of real property on which the rates and charges have become delinquent.

(2) The description of the premises as shown by the records of the office of the county auditor.

(3) The amount of the rates and charges, together with the amount of the penalty.

Sec. 3. (a) The officer shall record a copy of the list in the office of the county recorder.

(b) The county recorder shall charge a fee for recording the list in accordance with the fee schedule established under IC 36-2-7-10.

(c) After recording the list, the officer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) This subsection applies only to a county that does not contain a consolidated city. A service charge of five dollars (\$5), which is in addition to the recording fee charged under this section and section 6 of this chapter, shall be added to each delinquent rate or charge that is recorded.

Sec. 4. (a) This section applies only to a county containing a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter, the officer shall certify to the county auditor a list of the liens that remain unpaid according to the following schedule:

(1) Liens recorded on or after August 1 of the preceding year and before February 1 of the current year shall be certified before March 1 of each year for collection in May of the same year.

(2) Liens recorded on or after February 1 of the current year

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and before August 1 of the current year shall be certified before September 1 of each year for collection in November of the same year.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list.

Sec. 5. (a) This section applies only to a county that does not contain a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

(1) after April 1 of the preceding year; and

(2) before April 1 of the current year;

the officer shall before June 1 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(c) The county and the officers and employees of the county are not liable for any material error in the information on this list.

Sec. 6. (a) The officer shall release a recorded lien when the:

(1) delinquent rates and charges;

(2) penalties;

(3) service charges; and

(4) recording fees;

have been fully paid.

(b) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

Sec. 7. (a) This subsection applies to a county that does not contain a consolidated city. On receipt of the list under section 5 of this chapter, the county auditor shall add a certification fee, in an amount determined by the governing body, for each lot or parcel of real property on which rates and charges are delinquent. The certification fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the:

(1) delinquent rates and charges;

(2) penalties;

(3) service charges;

(4) recording fees; and

(5) certification fees;

that are due not later than the due date of the next November installment of property taxes.

(b) This subsection applies to a county having a consolidated city. On receipt of the list under section 4 of this chapter, the county auditor shall enter on the tax duplicate the:

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- (1) delinquent fees;
- (2) penalties;
- (3) service charges; and
- (4) recording fees;

that are due not later than the due date of the next installment of property taxes.

(c) The county treasurer shall include any unpaid charges for the:

- (1) delinquent rate or charge;
- (2) penalty;
- (3) service charge;
- (4) recording fee; and
- (5) certification fee;

to each owner of each lot or parcel of property at the time the next cycle's property tax installment is billed.

Sec. 8. (a) This section does not apply to a county containing a consolidated city.

(b) After June 1 of each year, the officer may not collect or accept:

- (1) delinquent rates and charges;
- (2) penalties;
- (3) service charges;
- (4) recording fees; or
- (5) certification fees;

from property owners whose property has been certified to the county auditor.

Sec. 9. If a:

- (1) delinquent rate or charge;
- (2) penalty;
- (3) service charge;
- (4) recording fee; or
- (5) certification fee;

is not paid, the county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

Sec. 10. (a) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all:

- (1) rates and charges;
- (2) fees; and
- (3) penalties;

that have been collected.

(b) The county auditor shall:

- (1) deduct the service charges and certification fees collected

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1 by the county treasurer; and

2 (2) pay to the officer the remaining fees and penalties due the
3 district.

4 (c) The county treasurer shall:

5 (1) retain the service charges and certification fees that have
6 been collected; and

7 (2) deposit the charges and fees in the county general fund.

8 Sec. 11. (a) This section applies to a:

9 (1) rate or charge;

10 (2) penalty; or

11 (3) service charge;

12 that was not recorded before a recorded conveyance.

13 (b) The:

14 (1) rate or charge;

15 (2) penalty; or

16 (3) service charge;

17 shall be removed from the tax roll for a purchaser who, in the
18 manner prescribed by IC 13-26-12-7, files a verified demand with
19 the county auditor.

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